IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

COMPANY PETITION NO.769 OF 2006

M/s. Balubhai & Co. ..Petitioner.

Vs.

Emco Ltd. ..Respondent.

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Mr. S. Purohit i/b Bhaishankar Kanga & Girdharilal for the Petitioner.
Mr. Gaurav Joshi i/b Yogesh Adhia for the Respondent.

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CORAM: **DR. D.Y. CHANDRACHUD, J.**

19th April, 2007.

P.C. :

The claim in the Company Petition is that an amount of Rs.8,52,034/- is due and payable on account of the supply of valves to the Respondent. From the record it emerges that a consignment of 240 valves was found to be defective and joint minutes were recorded between the parties of a meeting held on 4th February, 2005. The contention of the Petitioner is that thereafter the defects were rectified. However, it would appear that even thereafter rejection memos have been issued by the Respondent in the months of March and April 2005. The claim in the amount of Rs.8,52,034/- has not been bifurcated in the Company Petition. There is clearly a dispute of

quality. The fact that a part of the consignment was defective stands admitted from the documents on the record. The Petitioner would therefore have to be relegated to the remedy of instituting a suit for the recovery of its dues. The Company Petition is accordingly dismissed.